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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

NO. 73-1462

MARK WHITE, ET AL,
Appellants
V.

DIANA REGESTER, ET AL,
Appellees

MARK WHITE, ET AL,
Appellants
V.

FRANK A. ESCALANTE, ET AL,
Appellees

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

SUPPLEMENTAL BRIEF OF APPELLEES ESCALANTE, ET AL

TO THE HONORABLE SUPREME COURT OF THE UNITED STATES:

On January 27, 1975 this Honorable Court handed down its opinion in Chapman v. Meier, ____U.S.____, 43 U.S. Law Week 4199

(Jan 28, 1975). It is to matters related to that opinion that this supplemental brief is directed.

ARGUMENT

UNWIELDY LENGTH OF BALLOT AGGRAVATES DENIAL OF MEANINGFUL MINORITY ACCESS TO POLITICAL PROCESS.[1]

In Chapman v. Meier, ____ U.S. ____, 43 U.S. Law Week 4199 (n. 28, 1975), a case involving the propriety of court imposed multi-member districts, this court recognized, among other drawbacks, a practical weakness inherent in such districts:

> ...as the number of legislative seats within the district increases, the difficulty for the voter in making intelligent choices among candidates also increases [citation omitted]. Ballots tend to become unwieldy, confusing, and too lengthy to allow thoughtful consideration." 43 U.S. Law Week at pp. 4203, 4204.

This Court has previously recognized that states have a legitimate interest in avoiding confusion, deception and frustration of the democratic process by overcrowded ballots in the context of filing fee cases. See Jenness v. Fortson 403

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[1]Argument in Appellees Escalante, et al', Brief on the Merits (light green cover) relative to this point occurs at pp. 70, 71 thereof.

U.S.431 at p. 442 (1970) and Bullock v. Carter 405 U.S. 134 at page 145 (1972).

It is this very interest which the Attorney General of Texas, Appellant in the case at bar, has previously urged in his brief in the filing fee case out of the State of Texas, Dies v. Carter, No. 1606, October Term 1970, Appellant's Brief.[2] The then Attorney General of Texas, Crawford Martin, in his brief in Dies v. Carter, argued, in urging this Court to reverse the District Court below, that the District Court's

> "decision has virtually insured a large list of candidates in every primary election with additional run-off elections then becoming virtually certain with increased election cost. Appellant Attorney General's Brief, Dies v. Carter, No. 1606 October Term 1970, at p. 19.[3]

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[2]A Court may take judicial notice of pleadings in another case especially where that case presents a related issue. Doe v. Wohlgemuth, 505 F. 2d (10th Cir. ...1974).

[3]The interest of the State in avoiding lengthy ballots was emphasized in that same brief by repeated references to that identical interest:

> "If the State agrees to finance everybody at a primary election, we submit that this probably will cause a proliferation of political parties and contribute to the breakdown to our two party system." Appellant's Brief,

It is respectfully submitted that in a nine member multi-member district the lengthy ballot required for submission of all candidates for each of the nine places to the entire electorate goes a long way in defeating this legitimate State interest of avoiding voter confusion and providing ballots which are of manageable size. Tarrant County political expert, J. W. Sifford, testified on the trial of the

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Dies v. Carter at page 17.

"The fee can be used by political parties to regulate the size of their primaries." Appellant's Brief, Dies v. Carter at page 20.

"When you consider that a political party has a legitimate interest in financing its primary, in controlling the number of people on the ballot so as to avoid voter confusion;...then the poor man is not invidiously discriminated against by being required as an absolute requirement to get on a party primary ballot, to pay a filing fee." Appellant's Brief, Dies v. Carter at page 22.

"The varying interest of the state... present the legislature of the State of Texas with a complex problem of striking a reasonable and workable balance and solution to regulating the ballot, avoiding voter confusion, financing the election process and making the ballot to all." Appellant's Brief, Dies v. Carter at page 30.

instant case that by the time people get down to state representative on the ballot, they usually do not care much. (Volume 3, page 1128 App. - J. W. Sifford).

If, as the State of Texas has repeatedly asserted in the filing fee cases before this Court, the State has a legitimate interest in regulating the size of the ballot and making it possible for a voter to make intelligent choices, what countervailing interest does the State have in multi-member districts which outweighs its strong interest in controlling ballot length?

Respectfully Submitted,

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